



October 15, 2020

Dear members of the CLIMBER Small Business Loan Program Oversight Board,

I am writing on behalf of Colorado Nonprofit Association and its 1,500 nonprofit member organizations. Thank you for the opportunity to provide feedback on the definition of business for the purposes of implementing HB 20-1413.

We appreciate the work of this board in ensuring the CLIMBER Loan Program supports the ability of many small employers to recover from the COVID-19 pandemic and become financially sound again. With the U.S. nonprofit sector facing the loss of over a million jobs since March, we commend efforts like this program to help small businesses restore cash flow and prevent further job losses.

As you know, HB 20-1413 requires the board to consult with small businesses in establishing the criteria for eligible borrowers, which include demonstrating as of February 29, 2020 at least two years of positive cash flow and a debt service coverage ratio of at least one to one. We are pleased to see that the board has included nonprofits in the definition of eligible businesses.

However, we have concerns about the language requiring that an eligible nonprofit “...derives program service revenue from the sale of products or services and for which the related program service revenue accounts for at least 50% of the organization’s annual revenue.”

This restriction is unfair, as it applies only to nonprofits, and is not necessary. We ask the board to delete this phrase, so that lenders may use their professional judgment to determine eligibility and creditworthiness case by case, applying the statutory requirements of positive cash flow and the debt service ratio as they would with other eligible businesses.

Basing nonprofit eligibility on sources of revenue is unfair and unnecessary in several respects. First, eligibility is not limited for any other category of businesses identified in the definition. While many other businesses have diverse sources of revenue, nonprofits are the only type of business that may be excluded if most revenues are not from sales of goods and services.



Second, it picks winners and losers within the nonprofit sector. As defined on the IRS Form 990 filed by federally tax-exempt nonprofits, program service revenue does not include common revenue sources for nonprofits such as individual donations, foundation grants, corporate sponsorships, fundraising events, sales of inventory, and more. While nonprofits that primarily generate revenues from fees would be eligible, those that primarily generate revenues from donations and grants would not.

This means nonprofits - such as performing arts organizations, health clinics, and adult education centers - could be eligible while nonprofits like food pantries and research institutes likely would not. Many of the former still wouldn't be eligible because they receive more than half of revenues from sources other than fees. Provided the lender determines a nonprofit can repay the loan and applies the statutory criteria, the nonprofit should be eligible regardless of revenue sources.

For these reasons, we request that you adopt a definition of business that allows all nonprofits to be eligible provided they meet the criteria of HB 20-1413. The definition should not categorically exclude nonprofits that rely on certain sources of revenue. Please feel free to reach out for further discussion of this request or other feedback as you shape this important program for Colorado's businesses.

Sincerely,

Mark Turner  
Senior Director of Public Policy